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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,495	05/04/2001	Denis Khoo	6000-005-52	8842

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EXAMINER
LE, KHANH H

ART UNIT	PAPER NUMBER
3622	

MAIL DATE	DELIVERY MODE
08/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/849,495	KHOO ET AL.	
	Examiner	Art Unit	
	Khanh H. Le	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 07/05/2007 KHL

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *28-32,34-47 and 50-66* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *28-32, 34-47 and 50-66* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

1. This Office Action is in response to the correspondence of 07/05/2007. Claims 28-32, 34-47 and 50-66 are pending in the current application. Claims 28, 30, 35, 40, 44, 45, 52, 63, 64, 65 are amended. Claims 28, 40, and 45 are independent.

Claim Rejections - 35 USC § 112

2. Previous Rejections of Claims 28-32, 34-47 and 50-66 are rejected under 35 U.S.C. 112, first and second paragraph are withdrawn.

Response to Arguments

3. Applicant's arguments filed 05/04/2007 have been fully considered. They are addressed by the new grounds of rejection presented below.

Claim Rejections - 35 USC § 102

4. Previous Rejections of Claims 28-32, 34-47 and 50-66 are rejected under 35 U.S.C. 102(b) as being anticipated by Logan US 5,721,827 are withdrawn.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 28-32, 34-47 and 50-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan US 5,721,827 in view of Miller US 006338043B1.

As to independent claims 28, 40, 45, Logan discloses:

A method, system, computer readable medium, and software for and comprising:

offering to provide content including at least one program over a data network from a content provider to a user (abstract,Fig.2, col. 1 lines 39-47:*in Logan , an offer to provide*

content with an option of viewing with ads or no ads occurs at Logan during the user initialization stage. The Logan form for the user to fill constitutes an offer to provide such content with or without ads to defray the costs of the content. In response, the user indicates the content desired as well as the amount of advertising desired, including no ads at all) (col. 8 line 42 to col. 9 line 11). Following such indication by the user, the content provider provides the content with or without ads as indicated by the user (i.e. "the content is not provided until the user makes the election" regarding the ads);

prompting the user proximate to the beginning of each program, on a program-by-program basis, to choose an option of whether or not the user wishes to view advertising with that program

(implicitly, if the Logan user chooses no ads at all (i.e. a first option) at the initiation step, then no ads are sent with the content and he/she pays the full price of the content. On the other hand if he/she elects to view ads, at the initiation stage, then the content is sent with the ads after the user's election of the option of ads or no ads, as claimed.

(Logan discloses an option of editing the mix of content and ads sent during playback. However this also implies the option of not editing by the user, in which case the user receives the content with or without ads exactly as sent by the provider after the user chose in the initiation or offer phase, as claimed.)

Further, the Logan process, (when the user chooses only one program), can be repeated, if the user so desires (as when the user has not used the system for a while and needs to repeat the process), re-starting at the offer form filling-out step, which in effect becomes "prompting the user proximate to the beginning of each program, on a program-by-program basis, to choose an option of whether or not the user wishes to view advertising with that program". Here Logan reads on the "prompting for ads or no ads at the beginning of each program, on a program-by program basis", because the operation of the Logan system is not modified thereby in the scenario as above-explained);

providing each program to the user, based on the received option (abstract,Fig.2, col. 1 lines 39-47);

(once the Logan viewer makes the choice, the resulting fee due for the program is interpreted as the "choice compensation"; the Logan user is given a choice to add ads in such amount while listening to the programs to the point of making the programs completely free (col. 9 lines 5-11; col. 21 lines 40-50: "charge level value of zero...for minimum charge" suggests free programming, since a minimum charge can be zero).

receiving a choice compensation from the user in response to the user electing to not view advertising with the program

(as stated above, implicitly, if the Logan user chooses no ads at all at the initiation step, then no ads are sent with the content and he/she pays the full price of the content) .

Logan does not disclose wherein the choice compensation is based on a rating of the content being supplied.

However, MILLER TEACHES that the value of a program to advertisers is dependent upon its popularity (col. 1 lines 33-39), as measured by its rating (col. 1 lines 52-53).

Someone has to pay the content provider. If not the subsidizing advertiser then the consumer. Because content providers can fetch such value from advertisers based on the content ratings as taught by Miller, it would have been obvious for a person of ordinary skill in the art at the time of invention (POSITA) to add to the teachings of Logan that the choice compensation be based at least in part on a rating of the content being supplied. This is to replace the payment to content provider that would have otherwise been paid to content provider by the subsidizing advertisers had the consumer accepted to experience the ads.

Logan also discloses:
(claims 29,41,55, 64-66) at the above citations;

(claims 30, 44, 58), the data network comprises a content module (see at least Fig 4 items 315 "content providers" table , 303 "programs" table, and associated text);

(claims 31, 50, 61)the network comprises a content display device including a computer (see at least Fig 1 item 118 and associated text);

(claim 32, 51, 62): the user can elect advertising other than advertising that interrupts the program (see at least abstract: Logan ads are at end or beginning of program so does not interrupt the program);

(claims 35, 52, 63):the viewer/user transmits the option over the network to the content provider (abstract, col. 8 line 42 to col. 9 line 11; 4th sentence from last; col 4 l. 2-8; col 26 l. 53-59);

(claims 36, 46, 53):the choice compensation is a fee, payable to the content provider, by the viewer/user, wherein the fee is determined on the basis of the content offered (abstract : "subscriber fee"; col 26 l. 53-col 27 l. 8;col 17, col 27 l. 2-30);

(claims 37, and 59-60): an option comprising a choice to the viewer/user of selecting the content together with an advertisement embedded (added, inserted) therein for reduced fees (col 27 l. 3-6, Fig. 5 and associated text; col 9 l. 50 – col 10 l. 6);

(claims 38, 47, 54) the option is offered to a viewer/user comprising an individual viewer/user (abstract: "subscriber");

(claims 42, 34, 56): visual content including video (col. 39 lines 25-33);

(claims 43, 39, 57): audio content (col. 39 lines 25-33).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 06, 2007

KHL

DONALD L. CHAMPAGNE
PRIMARY EXAMINER